

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF TEXAS  
3 HOUSTON DIVISION

3 CORROSION PREVENTION \* Civil No. H-20-2201  
4 TECHNOLOGIES LLC \*  
5 \*  
6 \* Houston, Texas  
7 \*  
8 \* May 19, 2021  
9 \*  
10 \* 2:00 p.m.  
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7 TELEPHONE CONFERENCE  
8 BEFORE THE HONORABLE ANDREW S. HANEN  
9 UNITED STATES DISTRICT JUDGE

10 For the Plaintiffs:

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24 Proceedings recorded by mechanical stenography, produced by  
25 computer aided transcription.

1 THE COURT: This is Judge Hanen. We are on the  
2 record in 20-2201, Corrosion Prevention versus Hatle. I hope  
3 that's "Hatle."

4 Who do I have on for the plaintiffs?

5 MR. KEVILLE: Good afternoon, Your Honor. For the  
6 plaintiffs you have John Keville and Corinne Stone Hockman.

7 THE COURT: Okay. And for the defendants.

8 MR. EDMONDS: Good afternoon, Your Honor. For the  
9 defendants, that's Hatle.

10 THE COURT: Thank you.

11 MR. EDMONDS: My name is Robb Edmonds. And I have  
12 got a new lawyer with me, Michael Faries, F-a-r-i-e-s. And  
13 we're here on behalf of all five of the named defendants.

14 THE COURT: All right.

15 Mr. Keville, you kicked this thing off with  
16 your letter. Tell me about the discovery you need, and then  
17 I am going to let the defendants respond to it then before we  
18 will see what we can do to remedy everyone's problems. So  
19 why don't you start off.

20 MR. KEVILLE: Thank you, Your Honor. And if it's  
21 okay, under what is in your local rules about having young  
22 lawyers get the chance to argue motions, I would like to let  
23 Corey Stone Hockman address this if that's okay with the  
24 Court.

25 THE COURT: It's okay with me.

1 MS. HOCKMAN: Good afternoon, Your Honor.

2 So I think actually some of the issues may be  
3 streamlined through the letters back and forth. We have  
4 struggled to get answers and document productions in this  
5 case; but based on some of the representations in defendants'  
6 letter to the Court, we now understand that they have made  
7 the representation that no additional documents exist.

8 Now, setting aside that, we find it very  
9 difficult to believe that companies who buy ingredients from  
10 vendors, make products with those ingredients and sell those  
11 products to customers and the fact that defendants have  
12 produced profits, 10 pages of profit and loss statements  
13 where we think that there has to be invoice and sales  
14 information data that underlie those numbers, setting all of  
15 that aside, we now think that we are in a position, based on  
16 the defendants' representation that no more documents exist,  
17 that we can take that representation and use it in  
18 depositions.

19 Now, if, of course, we need discovery in the  
20 course of those depositions, that there are actually  
21 documents that exist, we made need to revisit this issue; but  
22 at this point our main concern is we now understand for the  
23 first time in writing that no additional documents exist, so  
24 we now feel that we are in a position to move forward with  
25 depositions.

1                   There is one side issue with one deposition,  
2 but we were not previously in that circumstance that we felt  
3 that we could move forward without the documents. We now  
4 are. But that now leaves us with the fact that the existing  
5 discovery deadlines and expert deadlines are not feasible for  
6 us to close discovery by the end of June and to have  
7 submitted an expert report by May 14th.

8                   THE COURT: Okay.

9                   Do Mr. Edmonds or Mr. Faries want to weigh in?

10                  MR. EDMONDS: Yes, Your Honor. This is Robb  
11 Edmonds. I am actually going to turn this over to Michael  
12 Faries as well.

13                  MR. FARIES: Thank you, Robb.

14                  Your Honor, in response to these matters in the  
15 discovery that's been going on now since this was filed in  
16 June, we've indicated multiple times with these, especially  
17 some of these requests for corporate documents and invoices,  
18 that they haven't existed. Over the phone, through email we  
19 have communicated that multiple times these are not large  
20 companies, these are not multi-faceted companies with huge  
21 numbers of employees. These are individuals who are largely  
22 running this business on their own, and they don't record  
23 things, they don't keep a tremendous amount of records at all  
24 in the normal course of business. So to address some of the  
25 surprise is that these documents just don't exist, and that's

1 something we've made clear for a while.

2           From the defense perspective, though, we find  
3 the need to extend the discovery to be problematic, to say  
4 the least, because this back and forth has been going on  
5 since the new year. And two weeks before we hit a expert  
6 deadline for the plaintiffs, now we need to extend time; and  
7 no depositions have been noticed until last week, were the  
8 first ones. And we are under the impression that they have  
9 what they needed, they understood what they are going to get;  
10 and we were honestly waiting to see what the defense -- I'm  
11 sorry -- the plaintiffs were even going to do to further  
12 their case.

13           There is not much documents to give. We have  
14 given everything we have, and the information we have given  
15 has been relevant, and it, in terms of volume, has been  
16 tremendous.

17           In response, we have not gotten anywhere near  
18 to that from the plaintiffs. The first production we  
19 received from them was just the items of the original  
20 complaint. The second was a list of highly confidential  
21 reports that served up absolutely no purpose. And then we  
22 had one additional set of production received from them that  
23 only pertained, to the best of our understanding, to one of  
24 their seven counts. The rest of the production that we asked  
25 for from them for the other six counts, specifically the

1 trade secret matters, we have gotten nothing. And while the  
2 burden is on them to prove these matters, that just sort of  
3 leaves us wondering what's going on to now suddenly have to  
4 extend all of this out.

5               So from our perspective, depositions and  
6 everything else that they need could have been done months  
7 ago. The idea that they need a two-or-three-month extension  
8 for expert reports, asking only for two weeks prior to that  
9 to the deadlines seems a little off to us.

10              And at this point we are concerned heavily with  
11 the cost that this is incurring on our client just to keep  
12 the wheel spinning when we have no further discovery needs  
13 and the close of discovery is totally fine, we're about to  
14 move forward to get this done.

15              So from our perspective this is just extending  
16 and delaying the inevitable. There is not really many more  
17 documents to find at all, and we are just sort of waiting to  
18 finally get to the end of this.

19              THE COURT: All right. What I am hearing this from  
20 both sides is that both sides I think are now admitting or at  
21 least conceding, unless something different comes up in the  
22 depositions, that the defendants have complied with their  
23 discovery obligations.

24              Let me ask Mr. Faries, have you gotten  
25 everything you need?

1           MR. FARIES: Well, given the position that they are  
2 asserting obviously to trade secrets and confidential  
3 information, we have asked repeatedly for a list,  
4 enumerations, specificity, something to know what it is that  
5 the defendant supposedly stole, we don't have that.

6           But at the same time, we're the defense,  
7 non-moving party in this regard. So if they can't prove  
8 their burden of what a trade secret is, that sort of falls on  
9 them. But if it suddenly comes out at the last moment that  
10 they have a laundry list of trade secrets that supposedly  
11 have been taken or some aspect of the confidentiality  
12 agreement, then, especially at this 11th hour of the  
13 discovery matter, it's almost trial by ambush.

14           So, one the hand, we have what we need to  
15 defend against this lawsuit as it stands; but at the same  
16 time we have not received any of that information that we  
17 have asked for. So it sort of puts us in a situation that  
18 there's a possibility that a rabbit comes out of a hat, but  
19 we are not sure what it could be or what they could look like  
20 and we don't really know what that's going to prove.

21           So right now our position is that we are ready  
22 to go forward with what we have and we are confident what we  
23 can go forward with, but we haven't been really helped out in  
24 that regard. So we're fine if it closes out because it  
25 honestly helps us.

1           THE COURT: Ms. Hockman, what about their claim --  
2 and, of course, I may be paraphrasing Mr. Faries badly -- but  
3 their claim that they, you know, where they're being sued for  
4 a trade secret, for theft of a trade secret or misuse of a  
5 trade secret, but they don't know which trade secret you are  
6 claiming they took.

7           MS. HOCKMAN: Yes, Your Honor. We served discovery  
8 responses, in particular responses to interrogatories that  
9 detail the bases for our claim, so they should have that  
10 information.

11          THE COURT: And so whatever you're claiming they  
12 took are in those answers?

13          MS. HOCKMAN: Yes. I mean, for the most part I  
14 think we would like to explore more; and we have been  
15 constrained in the fact that we don't have adequate documents  
16 from them and we have been unable to fully investigate and  
17 complete our investigation through depositions, and so there  
18 may be supplementation that needs to take place. But at this  
19 stage we have provided that information.

20          THE COURT: Okay.

21                 All right. It sounds like we are getting  
22 things resolved, and I don't know that there is any order  
23 that I can enter, but let me talk to both sides now.

24                 We entered, we, the Court, entered the  
25 scheduling order in November. And in November we were



1 assuming we were going to start jury trials in January.

2 Obviously it's May, and we just started last week.

3               So I guess what I am telling you is, I don't  
4 know how firm your trial setting in January of '21 is. I  
5 would like to think it's still going to be firm that we'll  
6 have things ironed out over the summer and be able to slot  
7 you in. I am warning both sides there is an outside chance I  
8 may have to push it.

9               Regardless, if you guys can agree, if deadlines  
10 need to be changed, I mean, we are still under certain code  
11 restrictions and people don't like to travel, or at least  
12 some people don't; and I don't know how much of that applies  
13 in this case. You guys can agree, by agreement can change  
14 any of these other deadlines, and I'll be fine with that as  
15 long as you send me a letter that's signed by both sides. So  
16 if you need to bump the expert deadline and you want to move  
17 it back a month for the plaintiffs and a month for the  
18 defendants, just send me a letter to that effect that both  
19 sides have signed that says, Judge, here's what we did. And  
20 I am doing that just so I have proof of what's what. But I  
21 did want to give you a heads up there is an outside chance  
22 that it's going to be, that the trial setting in January may  
23 be tough.

24               Now, I am finding, to give you some sliver of  
25 hope or faith, that as I'm putting cases to trial they're

1 miraculously settling.

2 MR. EDMONDS: Yeah. That happens.

3 THE COURT: So if they continue to do that at the  
4 current rate, that January trial setting may be good; and it  
5 may be something that along about November, before your  
6 pretrial order is due, both sides again may want to write me  
7 a letter together and say, hey, Judge, we are getting  
8 ready -- and I have been where you guys are. Putting  
9 together a pretrial order is not only an arduous task  
10 sometimes, it's expensive.

11 And you may want to write me and say, how does  
12 January look? And I'll be glad to analyze that for you and  
13 give you my best guess. But you will not offend me by doing  
14 that, because, believe me, I know what it takes and I know  
15 these attorney's fees can rack up. And getting ready, the  
16 expense of getting ready for trial and then not going and  
17 then having to do three months later getting ready again, I  
18 mean, I have had those conversations. They're not easy to  
19 have with your client. You mean, I am paying you twice to  
20 get ready? And it's hard to explain that in that intervening  
21 three months you've handled 50 other cases.

22 All right. I think it looks like we're on  
23 track.

24 Mr. Faries, Ms. Hockman, either of y'all, is  
25 there something we can do today to make it go smoother?

1           MR. KEVILLE: Your Honor, John Keville for the  
2 plaintiff, if I may, just to add one point. We have had  
3 several conferences before writing this letter trying to get  
4 the extension of the dates, and the defendants were not  
5 agreeable. That's ultimately why we wrote the letter. We  
6 were hopeful that we could work out the additional discovery  
7 issues with the extra time.

8           And then now hearing in this letter that there  
9 are no documents, which I will say is astounding to me  
10 because I don't know how they buy chemicals and market those  
11 products to others without any paper records whatsoever. But  
12 I take their representation at their word.

13           I will say, we attached one of their marketing  
14 documents that was part of our complaint as an exhibit to our  
15 complaint in this case; and they have not only not produced  
16 that, but they have not produced any other marketing  
17 documents, and they represent they don't have any. So we  
18 will have to explore that in the deposition.

19           But the bottom line is, we've tried to get an  
20 agreement to extend the dates, and they don't have have it.  
21 And so, I think, unless I hear from defendants something  
22 otherwise that now after this call they're willing to agree,  
23 I think we are still in the same position.

24           THE COURT: All right. Mr. Edmonds.

25           MR. EDMONDS: Yes, Your Honor. This is Robb

1 Edmonds. I think we're more amenable to letting deadlines  
2 slide now knowing that we don't have to prepare for a trial  
3 date in January.

4 But I do want to hand the mic over to Mr.  
5 Faries again because I think there needs to be conversation  
6 of the parties' discovery plan that we have put together and  
7 how we bifurcated the electronic discovery and specifically  
8 bifurcated emails from all electronic discovery has a  
9 separate plan, has a separate protocol. And only yesterday  
10 did we get anything remotely related to email requests from  
11 the plaintiff. And maybe some of the responses via email may  
12 cure their surprise, and we have very little documentation.  
13 But again, that was served yesterday except for the email  
14 discovery plan was signed off by the Court back in I believe  
15 February.

16 THE COURT: All right. Let me do this. I am going  
17 to extend the -- let me back up then before I do anything.

18 Mr. Keville, did you produce expert reports  
19 what, two days ago, three days ago?

20 MR. KEVILLE: No, we did not, Your Honor. That's  
21 really what triggered this letter is we had gotten no  
22 documents, so we had kind of not been able to schedule the  
23 depositions and we weren't able to put the expert reports  
24 together. So that really is what was triggering this.

25 THE COURT: Here is what I am going to do. I am

1 going to just arbitrarily give a month extension on  
2 everything. So expert reports by the plaintiff due 5-14, now  
3 due 6-14. Defense experts set 6-18, 7-18. Discovery which  
4 was 6-23, 7-23. I think that's what the defendants thought  
5 it was anyway.

6 MR. EDMONDS: Yes, Your Honor. This is --

7 THE COURT: Hold on.

8 And then I would keep all the other deadlines  
9 as they are. And then if some other party, one of the two  
10 parties needs some relief and you can't agree on it, then  
11 you'd come back to me.

12 Go ahead, Mr. Edmonds.

13 MR. EDMONDS: Yes, Your Honor. Robb Edmonds here.

14 Yes. And I want to apologize to the plaintiffs  
15 and the defendants, or sorry, the Court for missing that  
16 discovery deadline because all the other dates on this  
17 electronic notification were the same dates that were agreed  
18 by the parties in the joint case management plan; and I  
19 didn't even notice, instead of July, this one date said June.  
20 And I didn't know if maybe that was a typo or if that was  
21 intentional, but that was the only date that wasn't agreed to  
22 by the parties, and I didn't bother to even notice that. And  
23 it's clear as day it was June, and I had in my mind it was  
24 July like we had all agreed. But anyway --

25 THE COURT: At this stage there's no harm, no foul.

1 MR. EDMONDS: Very good.

2 THE COURT: Let's go forward using those deadlines,  
3 let's get the discovery done. If there is a problem, try to  
4 work it out between yourselves. If not, come back to me.

5 MR. KEVILLE: Your Honor, once again, John Keville.  
6 Just one point I had raised on this, and hopefully this can  
7 be worked out between the parties. I will try my hardest.

8 But the first depo that we noticed was of their  
9 COO, who the three pages of financials that they produced  
10 came from him; and they have said he is not available until  
11 July. So, it may cause that to slip more. I am just putting  
12 that out there so we're aware. And we will try and work -- I  
13 will certainly try very hard to work through it with the  
14 other side.

15 THE COURT: Where is he?

16 MR. EDMONDS: Yes, Your Honor. This is Robb Edmonds  
17 again. So, Chuck, Christopher Kent Knowles is who they're  
18 referring to. He spends his summers in upstate Wisconsin.  
19 He just left on May 11th. And we were just sent the subpoena  
20 on Friday, last Friday for him for 11 days from the date of  
21 the subpoena.

22 So the subpoena was May 13th. He left two days  
23 prior to that. There was no conversation. I had no notice  
24 that that is who they are going to depose first, and that was  
25 completely out of the blue.

1                   He is the caretaker for his 90-year-old father.  
2 They both go up to their cabin in upstate Wisconsin.  
3 Minneapolis is the closest airport to where they are. He is  
4 there until the end of July, and he will be back in Houston,  
5 actually I think it's the third week of July.

6                   Now, there is a possibility we can work  
7 something out, do something virtually, something along those  
8 lines; but the plaintiffs have noticed him to be at their  
9 office in Houston in 11 days. And I notified them that  
10 that's unreasonable and was not enough time at all to pull  
11 that off.

12                  THE COURT: Well, Mr. Edmonds, let me interrupt.  
13 Let me put the burden on you, and let's figure out a way to  
14 do this virtually.

15                  MR. EDMONDS: I agree, Your Honor.

16                  THE COURT: And obviously if there is a subpoena  
17 duces tecum with it, you are going to have to send the  
18 documents over to the plaintiffs literally because obviously  
19 they're going to want to look at the documents, and you may  
20 have to Fed-Ex them a copy of whatever you produce up to your  
21 client. Let's see if we can get this done virtually. You  
22 know, he and his 90-year-old dad don't need to be doing extra  
23 traveling during Covid season.

24                  MR. EDMONDS: Exactly, Your Honor. And if he leaves  
25 him, he has to put him in some kind of senior living care

1 while he's gone. So that seems to be -- hopefully we won't  
2 have to go through all that.

3 THE COURT: Well, Mr. Keville, if that turns out to  
4 be inadequate for some reason, again, you can come back to  
5 me. This is one of the reasons I don't delegate my discovery  
6 matters to the magistrates because I want to handle it  
7 because I know at the end of the day I am going to have to --  
8 if it's done wrong, it's my mistake, not hers.

9 But I would assume one of your first questions  
10 is, is this all the documents you have?

11 MR. KEVILLE: That is definitely going to be one of  
12 our first questions, Your Honor. And we did send them an  
13 email when they said he wasn't available that either we could  
14 do it virtually or we could send someone up to Wisconsin,  
15 whichever they preferred, so we are fine either way.

16 THE COURT: All right. And either way is fine with  
17 me. But I am sure that's a question he can answer virtually  
18 about the documents because he ought to know who is keeping  
19 those documents and where they are.

20 MR. KEVILLE: Absolutely.

21 THE COURT: All right. Counsel, work this out. It  
22 sounds like you are on the right path. And if you need more  
23 time or there is another problem, as I said, just write  
24 another letter.

25 MR. KEVILLE: We appreciate it. Thank you very much



1 Your Honor.

2 MS. HOCKMAN: Thank you, Your Honor

3 MR. EDMONDS: Thank you, Your Honor.

4 THE COURT: Thank you, counsel.

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7 (Conclusion of proceedings)

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## CERTIFICATION

I, Fred Warner, Official Court Reporter for the United States District Court for the Southern District of Texas, Houston Division, do hereby certify that the foregoing pages 1 through 17 are a true and correct transcript of the proceedings had in the above-styled and numbered cause before the Honorable ANDREW S. HANEN, United States District Judge, on the 19th day of May, 2021.

WITNESS MY OFFICIAL HAND at my office in Houston, Harris County, Texas on this the 26th day of May, A.D., 2021.

/s/ Fred Warner  
Fred Warner, CSR  
Official Court Reporter